

From: Emily Van Alyne [<mailto:oceanminded09@gmail.com>]

Sent: Wednesday, September 25, 2013 1:22 PM

To: Asere, Babatunde I. (DNREC)

Subject: Proposed amendment to 7 DE Admin. Code 1147– CARBON DIOXIDE (CO2) BUDGET TRADING PROGRAM

- **RGGI has made Northeast and Mid-Atlantic states leaders in addressing climate change**

- GHG pollution from power plants in RGGI fell 45% below the initial cap in 2012

- The decline is due to decreased electric generation from carbon-intensive coal and oil plants, increased generation from renewables, and growing investments in energy efficiency

- Reinvestment of RGGI revenue in energy efficiency and other clean energy programs will reduce GHG emissions by 12 million tons, the equivalent of taking 2 million cars off the road

- RGGI states cut per-capita GHG pollution 20% faster than the rest of the country from 2000-2009, even as the region's economy grew 87% faster than the rest of the country

- **The impacts of climate change are becoming more apparent**

- 2012 was the hottest year on record in the U.S. *by far*, and 2001-2012 were all among the hottest 13 years on record

- Hotter temperatures are super-charging our weather, most recently exemplified by Superstorm Sandy, which was made stronger by higher-than-average sea surface temperatures linked to climate change

- **RGGI has been economically beneficial for the region**

- Independent analysis found that the net effect of RGGI's first 2.5 years of operation was:

- A boost in economic output in participating states of \$1.6 billion dollars

- 16,000 job years of employment across the regional economy

- \$1.3 billion in energy bill savings over 10 years

- State-specific benefits:

- Electricity prices (¢/kWh) declined by 10% across the region between September 2008 (when the first RGGI auction was held) and September 2012:

- **Improvements will build on RGGI's success and make the program stronger**

- Reducing RGGI's cap will lock in significant reductions in GHG pollution and ensure that power sector emissions continue to decline

- A stronger RGGI is projected to bring states \$3.8 billion in revenue through 2020, which would increase economic output by \$8.2 billion and create 123,000 job years of employment

RGGI improves public health

By capping power plant carbon pollution, the RGGI states are acting to protect public health. Scientists warn that the buildup of carbon pollution will create warmer temperatures which will increase the risk of unhealthy smog levels. Any increase in smog means more childhood asthma attacks and complications for those with lung disease.

Even with the steps that are in place to reduce ozone, evidence warns that changes in climate are likely to increase the risk of unhealthy ozone levels in the future in large parts of the United States.

Thus, by limiting carbon pollution, The RGGI states will help improve the negative health factors that may be exacerbated by ozone including:

- shortness of breath and chest pain,
- wheezing and coughing,
- increased risk of asthma attacks,
- increased susceptibility to respiratory infections, and
- exacerbation of side effects of people with lung diseases such as asthma or chronic obstructive pulmonary disease (COPD)

From: Devon Van Alyne [<mailto:vanalyned@gmail.com>]

Sent: Thursday, September 26, 2013 4:33 AM

To: Asere, Babatunde I. (DNREC)

Subject: Proposed amendment to 7 DE Admin. Code 1147– CARBON DIOXIDE (CO2) BUDGET TRADING PROGRAM

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From: barbara@readergraphics.com [mailto:barbara@readergraphics.com]
Sent: Thursday, October 10, 2013 3:53 PM
To: Asere, Babatunde I. (DNREC)
Subject: Public Comments-7Admin C1147

I support the adoption of the proposed amendments to the Green House Gas Initiative Model Rule. I commend Delaware for maintaining its membership in RGGI and in turn RGGI for conducting periodic reviews.

Barbara Reader

From: Stephanie Herron [mailto:stephanie.herron@sierraclub.org]
Sent: Thursday, October 10, 2013 4:09 PM
To: Asere, Babatunde I. (DNREC)
Subject: Public Comments – 7 Admin C 1147 (RGGI)

Dear Mr. Assere,

Please find the Delaware Sierra Club Comments in support of updates to the Regional Greenhouse Gas Initiative (RGGI) attached and pasted below.

September 25, 2013

| | |
|-------------------------|--------------------------------|
| Secretary Collin O'Mara | Mr. Ali Mirzakhilili |
| DNREC | DNREC |
| Office of the Secretary | Air Quality Management Section |
| 89 Kings Highway | 715 Grantham Lane |
| Dover, DE 19901 | New Castle, Delaware 19720 |

Re: Proposed amendment to 7 DE Admin. Code 1147– CARBON DIOXIDE (CO2) BUDGET TRADING PROGRAM (i.e., the RGGI program)

The Sierra Club is the nation's oldest and largest grassroots environmental group. The Delaware Chapter exists to further the Sierra Club's mission to explore enjoy and protect the planet in the state of Delaware.

On behalf of our chapter and our over 1,400 members in the state fully support Delaware's involvement in the Regional Greenhouse Gas Initiative (RGGI) and urge the Department to promptly adopt the amended regulation 1147. We applaud the nine-state RGGI Board for moving ahead, as was planned in the original Memorandum of Understanding, with a thorough and objective program review and coming up with the updated Model Rule, released on February 7, 2013.

The science of climate change is sound and anthropogenic climate change is agreed upon by 97% of climate scientists[1]. As the state with the lowest average elevation and roughly 381 miles of coastline, Delaware is particularly vulnerable to climate-induced sea level rise and the increased frequency and severity of coastal storms will have significant negative impacts on our state economy. In order to avoid the worst impacts of climate change Delaware must continue to reduce greenhouse gas (GHG) emissions cost-effectively. We strongly believe that RGGI has been and should continue to be an important part of this effort. Regionally, RGGI has caused reduction of GHG by significant amounts, saved \$1.3 billion in energy bills and creating 16,000 jobs.

As evidenced by the below chart[2], this program has lowered dangerous GHG across the region and been a boon to the state and regional economy by creating jobs and saving states money.

In addition to benefits in dollars and jobs brought to our state and region by the RGGI program, there have been immense benefits to air quality and public health. By lowering the “cap” on carbon pollution from power plants, Delaware can join the other RGGI states in protecting public health. As you know, Delaware has had problems with air quality and our state is in non-attainment of clean air standards for ozone. Scientists warn that the buildup of carbon pollution will create warmer temperatures which will increase the risk of unhealthy smog levels. Any increase in smog means more childhood asthma attacks and complications for the elderly and those with lung disease.

Thus, by limiting carbon pollution, we will help decrease the negative health conditions that may be caused or exacerbated by ozone, including:

- shortness of breath and chest pain,
- wheezing and coughing,
- increased risk of asthma attacks,
- increased susceptibility to respiratory infections
- chronic obstructive pulmonary disease (COPD) and Lung Disease

Updates to the RGGI program, such as reducing the regional CO2 cap will build on the program’s success by locking in significant reductions in GHG pollution so far and ensuring that power sector emissions continue to decline. Furthermore, a stronger RGGI is projected to bring states \$3.8 billion in revenue through 2020, which would increase economic output by \$8.2 billion and create 123,000 job years of employment.[3] Please adopt the amendments to regulation 1147 immediately.

Respectfully Submitted,

Stephanie Herron

Sierra Club, Delaware Chapter

[1] <http://climate.nasa.gov/scientific-consensus>

[2] Analysis Group, 2011, The Economic Impacts of the Regional Greenhouse Gas Initiative on Ten Northeast and Mid-Atlantic States, available at: http://www.analysisgroup.com/uploadedFiles/Publishing/Articles/Economic_Impact_RGGI_Report.pdf

[3] NESCAUM, 2013, *REMI Economic Impact Analysis Assumptions and Results: 91 Cap Bank Potential Scenario*, available at: http://rggi.org/docs/ProgramReview/February11/13_02_11_REMI.pdf

From: Muche, Robert [<mailto:Robert.Muche@pbfenergy.com>]
Sent: Friday, October 04, 2013 5:10 PM
To: Gray, Valerie A. (DNREC)
Cc: Godlewski, Thomas
Subject: Section 8.8-Additional (Monitoring and Reporting) Requirements to Provide Output Data

Hi Valerie,

In our reading of the above referenced section we believe that section 8.8.3 (bolded) applies to the refinery inasmuch as we will be buying CO2 credits for surplus power generation. The remaining two options do not apply to our type of operation. As far as the details of our monitoring plan we are currently working that out with Ravi as a portion of the Reg 1102 permit we recently submitted.

Section 8.8—Additional (Monitoring and Reporting) Requirements to Provide Output Data

8.8.1 A CO2 budget unit that requires the use of information submitted to the Regional Transmission Organization (RTO) to document megawatt-hours (MWh) the CO2 budget unit shall submit to the Department or its agent the same MWh value submitted to the RTO and a statement certifying that the MWh of electrical output reported reflects the total actual electrical output for all CO2 budget units at the facility used by the RTO to determine settlement resources of energy market participants.

8.8.2 A CO2 budget unit that requires gross output to be used that also reports gross hourly MW to the Administrator, shall use the same electronic data report (EDR) gross output (in MW), as submitted to the Administrator, for the hour times operating time in the hour, added for all hours in a year. A CO2 budget unit that does not report gross hourly MW to the Administrator shall submit to the Department or its agent information in accordance with 8.8.5.1.

8.8.3 A CO2 budget unit that requires net electrical output shall submit to the Department or its agent information in accordance with 8.8.5.1. A CO2 budget source whose electrical output is not used in the RTO energy market settlement determinations shall propose to the Department a method for quantification of net electrical output.

If that is the case, I don't believe we will have any comments for the draft model rule.

Please let me know when you get an opportunity if this is a reasonable interpretation.

Best Regards,

Bob Muche

Response :

From: Gray, Valerie A. (DNREC)

Sent: Monday, October 07, 2013 1:31 PM

To: 'Muche, Robert'

Cc: Godlewski, Thomas; Rangan, Ravi (DNREC); Asere, Babatunde I. (DNREC); Amirikian, Ronald A. (DNREC); Foster, Paul (DNREC); Vest, Lisa A. (DNREC)

Subject: RE: Section 8.8-Additional (Monitoring and Reporting) Requirements to Provide Output Data

Bob – that you for your comments and thoughts regarding the monitoring provisions as they relate to the refinery operations. We are in agreement with your interpretation of 8.8.3 – the monitoring plan shall address the quantification methodology for determining the surplus electrical output. I have spoken with your permit engineer Ravi Rangan and he agrees that the plan will address what generation will be required to obtain CO2 allowances to cover its emission.

If you have any further questions or comments regarding 7 DE Admin Code 1147, please do hesitate to contact me, Ravi or Babatunde Asere.

Valerie Gray

DNREC - Division of Air Quality
Planning Supervisor
Blue Hen Corporate Center
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Blue Skies Delaware; Clean Air for Life



Please consider the environment before printing this e-mail

From: Gary Myers [mailto:garyamyers@yahoo.com]
Sent: Wednesday, September 25, 2013 4:21 PM
To: Asere, Babatunde I. (DNREC)
Subject: Request to Extend Time for Submission of Comments on RGGI rule change

Dear Mr. Asere:

I am contacting you about the "public hearing" scheduled to be held tonight in Dover concerning Delaware's revision of its current rules concerning its participation in the RGGI initiative. Apparently, the hearing is to gather public input on RGGI's decision to lower the emission caps for future years and to make adjustments to reserve prices to increase auction bid amounts.

I am interested in submitting comments concerning the proposed changes to the existing rule. However, I am unable to go to Dover tonight and just learned (via a blog) about the hearing. I note that a notice was placed on DNREC's webpage on August 25 but no notice of this hearing was ever published in the Register of Regulations. (even though a notice was published in the Register about the hearing scheduled for immediately before this hearing). There does not seem to have been any newspaper notice of this hearing.

The change in the RGGI cap - and the additional state revenues it will presumably engender - is an important issue. I wish to file comments on the following issues:

1. That the change in the cap levels cannot be undertaken by simple regulation but requires further legislative action due to the provisions of Art. VIII, secs. 10 & 11 of the State Constitution (such sections bar any new taxes or fees or increases in any taxes or fees without legislation approved by 3/5 majorities in each legislative chamber). The Secretary's decision to increase the effective tax rate (in the form of higher auction prices and reserve prices) by lowering the emissions cap violates those two constitutional provisions.
2. The legislature has not delegated to DNREC the authority to change the cap level from the original one. While the original RGGI statute allows for DNREC to make changes in auction mechanisms it provides no statutory authority for the agency to make a change the total cap figure that was adopted by our legislature in the original RGGI statute. .
3. DNREC cannot change the cap without following the APA. While the RGGI statute allows the agency to amend the rules for changes in auction mechanisms, it does not authorize a change in the central cap amount without a rule-making process under the

APA. A change in the total cap is different from revisions to auction mechanisms. The present attempt to change the overall cap and make other substantive changes without Register notice and a formal process is ineffective and illegal.

Because of the paucity of the informal notice, and the significant issues outlined above, I ask that the record in this matter be kept open for another 20 days for additional comments. Without a full opportunity for the public to speak to the legal issues, the regulation proceedings threatens fundamental notions of political accountability and due process.

I ask that a copy of this e-mail be presented to the presiding officer at tonight's hearing and that he make a ruling on my request to extend the comment period for an additional 20 days.

Gary Myers
217 New Castle Street
Rehoboth Beach, DE 19971
<garyamyers@yahoo.com>
(302) 227-2775